

FALLBROOK COMMUNITY PLANNING GROUP

And

FALLBROOK DESIGN REVIEW BOARD

Regular Meeting

Monday 17 October 2011, 7:00 P.M., Live Oak School, 1978 Reche Road, Fallbrook

MINUTES

Meeting called to order at 7:00 PM by Jim Russell, who led the assembly in the Pledge of Allegiance.

15 members were present: Anne Burdick, Jean Dooley, Tom Harrington, Ron Miller, Michele Bain, Donna Gebhart, Jack Wood, Roy Moosa, Ike Perez, Jackie Heyneman, Chuck Sanacore, Steve Smith, Jim Russell, Harry Christiansen and Eileen Delaney.

1. Open Forum. Opportunity for members of the public to speak to the Planning Group on any subject matter within the Groups jurisdiction but not on today's agenda. Three minute limitation. Non-discussion & Non-voting item.

NONE

2. Approval of the minutes for the meetings of 19 September 2011. Voting item.

Ms. Bain motioned to approve the minutes as presented and the motion passed unanimously.

3. Request from the county Department of Parks and Recreation for an update from CSA81 on the county Project Status and Funding Reports listed below. County planner: Stephen Paul 858-966-1347. Continued at the 19 Sept meeting. **Parks and Recreation Committee.** Community input. Voting item. (8/15)

2010/2011 PLDO Projects Priority List recommended by CSA81 in order of priority

Fallbrook Sports Facilities replace with synthetic turf.

Acquire new park sites.

Community Center improvements.

Live Oak Park Amphitheater.

Don Dussault Park improvements.

Retain Beech Street Park, acquire new playground equipment.

2010/2011 Recreation Program Priority List recommended by CSA81 in order of priority

Soccer, Baseball/Softball, Basketball, Volleyball, Tennis, Skating.

Mr. Steven Paul of the County Parks Department presented the proposed projects and their order of importance. Mr. Paul stated that there was \$600,000 in funding available that the Department was proposing to apply to the project list. While it was not enough to finish these projects it would get a few underway. One of the projects that had received some concern from surrounding park neighbors was the improvements to the Live Oak Park Amphitheater. Mr. Paul stated the facility would accommodate only 100 guests and be limited to a 50 decibels sound system. Also the park and the amphitheater would continue to close ½ hour before sunset eliminating any late night venues.

A member of the public asked about the status of the River Park project.

Mr. Jake Enriquez of County Parks gave an update on the River Park, stating that alternate access to the easterly end of the park (Dulin Road) was under study. He also stated that while the 2009 EIR had identified 1500 acres for the park, only 500 acres had been acquired as of yet. Mr. Enriquez also informed the Group that the Parks Department was working to clear up title and tax issues on the Beech Street Park.

After limited further discussion Ms. Heyneman motioned to approve the project list as presented and the motion passed unanimously.

4. A brief presentation by John Seymore, Vice President – Acquisitions, National Community Renaissance, National CORE on the financial restructure of the Summeridge Apartments located at 818 East Alvarado Street. The 96 units are in dire need of rehab. The approx rehab planned is \$34,000 per unit. John Seymour (909) 483-2444 Ext. 159, jseymour@nationalcore.org. Continued at the 19 Sept meeting. **Land Use**. Community input. Voting item. (8/18)

Request pulled by applicant.

5. Discussion on a proposed letter to the Board of Supervisors, Representative Issa, Senators Feinstein and Boxer on the lost of land control and property taxes on lands purchased by the various Native American Tribes in San Diego County and then transferred to the Tribal Trust. Currently 12,822 acres in process. County Staff Teresa Brownyard, 619-685-2287. Continued at the 19 Sept meeting. **Land Use Committee**. Community Input. Voting item.

Mr. Wood introduced the concern and stated that the land use committee had put a great deal of thought into the matter and compiled a large number of facts on the subject. He read the following proposed letter.

To: San Diego County Board of Supervisors

v. 10-12-11

c: Representative Issa

Senator Feinstein

Senator Boxer

Bureau of Indian Affairs, Sacramento

The Fallbrook Community Planning Group is deeply concerned about Native American Tribes purchasing and transferring fee simple lands into Tribal Trusts.

According to information The Associated Press obtained from the federal Bureau of Indian Affairs under the Freedom of Information Act, from 1998 to 2007 Native American Tribes have absorbed into trusts more than 840,000 acres – or roughly the equivalent of the state of Rhode Island.

Today, 562 federally recognized tribes have more than 55 million acres held in trust and the acquisition of additional land is escalating at an alarming rate. Equally alarming is the fact that there seems to be very little public discourse or civil evaluation of the consequences of these actions especially on state and local governments and the effect on local residents, businesses, economies and local environments.

To allow this process to continue unabated endangers the welfare of the public and reduces the rights of the general population. Once public land is transferred into a tribal trust, the act is irrevocable. It is for this reason that the following essential concerns need to be reviewed and addressed.

1. **Lands in a trust create unfair competition.**

This country was founded on the principles of equal opportunity for all. This includes the freedom to pursue a livelihood, operate a business, and otherwise compete in an open marketplace. This is essential to any free enterprise system. Public commercial ventures cannot compete fairly with trust-originating businesses that do not pay sales tax, property tax, income tax or any other business taxes. This creates an unfair advantage and leads to a loss of business and jobs in the public sector.

2. **Indian trust lands, whether held in trust for the tribe or allotted for individual tribal members, are exempt from property taxation causing a major loss of revenue for the county and for public schools.**

3. Putting land into a trust creates a burden for local governments because they must still provide a full range of public services even though they cannot collect property taxes to compensate for the expense.

Tribal governments, which utilize public law enforcement, fire and ambulance services without mitigation agreements diminish local government tax revenues. This creates serious cost-shifting between local and state revenues for services provided to entities that pay no local or state tax. This also reduces the services and resources for the general public, who are taxpayers. In 2002, statewide Indian Casinos cost California counties more than \$200 million in non-reimbursed road, water, sewer, fire, and law enforcement costs. The Special Distribution Fund has only provided \$21.9 million in total to off-set the costs. In just eight California counties with tribal casinos, the burden of costs continues to mount, exceeding \$20 million annually.

4. Zoning ordinances may not be applied to Indian Trust lands under Public Law 280.

Sovereign Lands are exempt from Local/County Zoning Regulations/ Traffic Regulations, and all other local and county requirements. No explanation is necessary to understand the implications. However, as a clear example of the consequences: approximately two years ago the Pala Tribe erected an enormous “Las Vegas Style” sign with flashing multi-colored lights, along the I-15 Freeway south of Highway 76. Homeowners in the area adjacent to this sign lost their tranquil rural environment by having bright animated lights glare into their homes from dusk to dawn. The illumination from the sign created a perpetual daytime environment. The electronic sign was completely out of character for the area and in complete violation of the county zoning ordinances and the I-15 Corridor Design Guidelines. As a result, there were hundreds of complaints forcing County Code Enforcement and the local county supervisor to get involved. The sign was removed. However, if the property is now allowed to become the tribe’s sovereign land, the sign could go back up. There’s also a general concern that someday a major casino could be located adjacent to an existing residential neighborhood and three proposed residential developments with over a thousand homes, along with Palomar Community College and a possible elementary school. This is one example of the unintended consequences that will arise when lands are removed from any form of public and governmental control. Far more disastrous projects could easily be developed on this or any other trust property that is exempt from local regulations.

5. States, in general, may not tax the income of tribes or income of an enrolled member that is derived from Indian Trust Land.
6. States may not impose sales and excise taxes on sales or use of goods among tribes, tribal businesses, and tribal members in Indian Trust Land.
7. Tribal immunity may make it practically impossible for the state to collect taxes on transactions in Indian Trust Land.

For example, the Supreme Court has held that purchases by non-Indians from tribal businesses in Indian country are subject to sales tax. However, the tribe is immune from lawsuits and most of the standard legal collection mechanisms used by the state to collect its taxes.

8. The authority of state environmental laws over tribal members in Indian Trust Land is quite narrow.

States are restricted to statutes that prohibit certain acts, such as the sale or use of specific pesticides or chemicals in packaging or products. State statutes that are regulatory in nature—that permit certain actions and govern how they are to be carried out—are not applicable to tribal members in Indian Trust Land.

9. By allowing land to be transferred into Indian Trusts, the possibility of more gaming casinos rises.

When California voters passed Proposition 1A in March 2000 it was intended to allow Indian tribes to become self sufficient and to continue to operate their modest casinos on existing reservation lands. That point of self sufficiency has long been surpassed and has grown into a situation where an enormous amount of money is controlled by a few, leading to an evolving elite class.

California is home to 108 Tribal governments with approximately 31,623 enrolled tribal members benefiting from the growth of the gaming industry. 57 Tribes are operating 58 Casinos (Agua Caliente has two, Palm Springs and Rancho Mirage) throughout California. In 2006 California's 57 tribal casinos produced \$7 billion in earnings. The five tribes, who are currently seeking ratification for an additional 22,500 slot machines, a \$60 billion dollar deal, only have approximately 2100 enrolled tribal members.

Nationally, if tribal gaming were a single company, rather than 307 separate entities or casinos, it would rank among the top 100 corporations in America.

When San Diego County developed its new General Plan and Multiple Species Conservation Plan, tribes were consulted at planning stages to hear ideas for their properties so that they would be included into the new planning designations. Removing the parcels from San Diego County jurisdiction would have a negative effect on the County, its planning, and its oversight capabilities of those properties.

Since the year 2000, tribes have purchased over 12,000 acres of land in San Diego County, and most of that acreage, even if not contiguous to tribal lands, was or is now being transferred into tribal trust. This will place a tremendous and detrimental burden on the citizens of Fallbrook, San Diego County and the State of California.

The Fallbrook Community Planning Group, together with other Planning and Sponsor Groups, operates in an advisory capacity to San Diego County for the benefit of its residents. As representatives of the people of Fallbrook, we wholeheartedly join San Diego County's Land Use and Environmental Group in objecting to the transferring of land into tribal trusts.

We urge all involved to review and consider the cascading effect of the transfer of public lands and we encourage the development of a plan to address these issues so that the public welfare can be best served.

After further discussion Mr. Wood motioned to approve the letter and send signed copies to all Planning Groups and local officials and the motion passed unanimously.

6. AD11-034 Request for an Administrative permit to approve an As-Built addition to the 2nd Dwelling Unit, at 1041 E. Alverado St. Owner Mr. & Mrs. Almendarez and Phyllis Gibbons, 760-333-4625. Applicant and contact person Marty Diaz 760-728-1204. County planner Amber Griffith, (858) 694-2423, Amber.Griffith@sdcounty.ca.gov. Design Review Committee. Community input. Voting item.(9/22)

Mr. Almendarez presented the request. He stated that he had purchased the home in 1985 in the present configuration and only recently while installing a pool the County discovered that the second unit on his property was not permitted. After lengthy negotiation with the County an agreement was arrived to require one of his units to be reduced in size. The modification would cost Mr. Almendarez \$125,000 but he is willing to cooperate. The request was to approve the as-built addition.

After limited discussion Ms. Delaney motioned to approve the request as presented and the motion passed unanimously.

7. Presentation by Jeff Elmore 949.660.9128 x1224 jelmore@waremalcomb.com regarding the proposed new McDonald's to be located on an existing property containing a small convenience store at 142 Ammunition Road. **Design Review Committee.** Community input. Non-voting item. **Mr. Jeff Elmore presented the proposal to construct a new McDonald's in Fallbrook at the northeast corner of Ammunition and Mission. Basic site plans were presented. The McDonald's staff stated that the entrances on Main, Ammunition and Mission would probably be restricted to right in right out. They also stated they did not see the site allowing the 12 parking spaces per 1000 square feet of restaurant space that they predicted the County would require. They also assured the Group that the current restaurant would be sold. Several members of the Group expressed concern over the Mission entrance causing traffic flow problems. The McDonald's staff was informed of the effort the County was taking to make the Mission and Ammunition intersection work better. There were also concerns with the internal traffic flow depending on the time of day and Base flow volume. The Group advised the McDonald's staff to put a great deal of time into the traffic study they would be preparing for the project and review the Fallbrook Community plan for landscaping recommendations.**

The meeting was adjourned at 8:20 pm.
Tom Harrington, secretary.